

REMARKS

This Amendment is filed in response to the Office Action dated December 13, 2005, accompanied by an extension of time filed within the five-month time period for response, which time period is set to expire on May 15, 2005 considering that May 13, 2005 falls on a Saturday. Reconsideration of this application is requested in view of the foregoing amendments and the following remarks.

Before this amendment, claims claims 1, 3, 5, 6 and 9-15 are pending. Claim 1 has been further amended.

Support for the amendment to claim 1 is found in previous claim 1 and in the examples. Applicants assert that no new matter has been added by these amendments. Applicants withdrawal of the previous rejections is acknowledged with appreciation.

Claim Rejection 25 U.S.C. § 102

The Examiner rejected claims 11, 3, 5, 6 and 9-15 under 35 U.S.C. § 102(e) as being anticipated by US Patent Number 4,436,730 ("Ellis"). Applicant respectfully traverses this rejection. Ellis teaches the use of Polymer JR cationic polysaccharides to provide increased long-lasting lens wettability lending to a cushioning and lubricating effect with the eyelid and the cornea.

Applicant respectfully asserts that Ellis does not anticipate claim 1 as currently amended as well as claims 3, 5, 6 and 9-15, which depend from claim 1. Ellis did not recognize that the quaternized ammonium cationic polysaccharides could be used in an ophthalmic composition to preserve the ophthalmic compositions (compositions that are useful and suitable for use in the eye). Accordingly in each instance Ellis used an additional preservative in an amount effective to, at a minimum, preserve the solution.

Ellis did not teach an ophthalmic solution that consists essentially of a quaternized ammonium cationic polysaccharide in an amount effective for solution preservation. The phrase "consists essentially of," as used in the context

of the present claim language means that the preservative contains cationic polysaccharide and no other ingredients that would interfere with the basic and novel characteristics of the claimed invention. The basic and novel characteristics of the present invention is that the solution can be preserved with polymer JR and consequently, result in a gentler preservative over compositions that have a preservative amount of a traditional preservative such as thiomersol or benzalkonium chloride. Since, Ellis teaches ophthalmic solutions that contain preservative amounts of traditional preservatives such as benzalkonium chloride and thiomersal, it does not anticipate claim 1 or any additional claims.

It is noteworthy that Example IV is not an ophthalmic composition as it was formulated for the purpose of testing the viscosity of 2% solutions containing Polymer JR. It is doubtful that a solution of that concentration would have any benefit for use in the eye of a patient. It is questionable whether such a solution could be used comfortably in the eye of a patient without additional ingredients such as buffers or tonicity adjusting agents.

Thus, Applicants assert that the present invention is not anticipated by Ellis. Moreover, based upon the unique and novel properties of improving the comfort of a solution by replacing preservatives that are traditionally been known to cause discomfort, Applicants assert that the patent application contains sufficient evidence to establish non-obviousness.

No additional fee is believed to be due. However, please charge any additional fees or credit overpayment to Deposit Account No. 02-1425.

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Respectfully submitted,



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49-51 are within the scope of the allowable subject matter. New claim 53 contains all the combined elements of claims 1 and 51, new claim 58 contains all the combined elements of claims 1 and 49, and new claim 63 contains all the combined elements of claims 1 and 50. Therefore, claims 53, 58, and 63 and claims dependent thereon are within the scope of the allowable subject matter.

Having addressed all issues set out in the Final Office Action, Applicant respectfully submits that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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